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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,257	01/26/2001	Balaji S. Holur	062891.0510	8120
7590	09/22/2004		EXAMINER	
Tara D. Knapp Baker Botts L.L.P. Suite 800 2001 Ross Avenue Dallas, TX 75201			VU, VIET DUY	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

09/771,257

### Applicant(s)

HOLUR ET AL.

### Examiner

Viet Vu

### Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 10-11, 20-21, 30-31, 40-46, 48-54, 56-62 and 64 is/are rejected.
- 7) ☒ Claim(s) 2-9, 12-19, 22-29, 32-39, 47, 55 and 63 is/are objected to.
- 8) ☒ Claim(s) 65-70 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/1/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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**Restriction:**

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-64, drawn to establishing a computer network session, classified in class 709, subclass 227.

II. Claims 65-70, drawn to computer-to-computer data signaling and routing, classified in class 709, subclass 238, and class 370, subclass 352, 386.

The inventions are distinct, each from the other because of the following reasons: Inventions I and II are related as combination and subcombinations. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination I as claimed do not require the particulars of the subcombination II as claimed because a conventional data protocol for signaling can be used in the invention I. The subcombination II has separate utility such as use of a specific data structure for storing vendor specific information.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of

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their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

2. During a telephone conversation with Mr. Frame on September 17, 2004 a provisional election was made without traverse to prosecute the invention of I, claims 1-64. Affirmation of this election must be made by applicant in replying to this Office action. Claims 65-70 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

**Art Rejections:**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in

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order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1, 10-11, 20-21, 30-31, 40-46, 48-54, 56-62 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vandette et al, U.S. pat. No. 6,785,228.

Per claims 1 and 10, Vandette discloses a system and method for providing service access to a network comprising:

- a) generating at a client application a request for a network session (see col 4, lines 14-20),
- b) determining allowability of the session based on a service agreement stored in a local database without accessing external resources (see col 4, lines 20-55).

Vandette does not explicitly teach providing service in a wireless network. An official notice is taken that call setup in wireless network is similar to that of wirelined network.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Vandette's teachings in any conventional networks including wireless network because it would have prevented users from overusing the network resources (see col 1, lines 44-54).

Claims 11, 20-21, 30-31 and 40 are similar in scope as that of claim 1 and 10 and hence are rejected for the same rationale set forth above for claims 1 and 10.

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Per claims 41-46, 48-54, 56-62 and 64, it is also noted that the use of handshaking/negotiation signals including discovery and advertisement messages in wireless communications is well known in the art.

**Allowable Subject Matter:**

6. Claims 2-9, 12-19, 22-29, 32-39, 47, 55, and 63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion:**

7. The references cited by the examiner on PTO-892 but not relied upon are considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 703-305-9597. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on (703) 305-8498.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-305-9600. The Group fax number is 703-872-9306.

A handwritten signature in black ink, appearing to read "Zachary".

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9/20/04